

SIKKIM

GOVERNMENT



GAZETTE

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No. 17

GOVERNMENT OF SIKKIM
EXCISE (ABK) DEPARTMENT
GANGTOK

No. 2 Ex (Abk)

Dated: 19.01.09

NOTIFICATION

In exercise of the powers conferred by clauses (m) and (n) of section 77 of the Sikkim Excise Act 1992, (2 of 1992) the State Government hereby makes the following rules, namely:-

Short title extent and commencement 1. (1) These rules may be called the Sikkim Excise (Disposal of Confiscated Intoxicants, Materials and Articles and Intoxicant not fit for sale) Rules, 2008.

(2) They shall extend to the whole of Sikkim.

(3) They shall come into force on the date of their publication in the Official Gazette.

Definition

2. (1) In these rules, unless the context other wise requires:-

(a) "Act" means the Sikkim Excise Act 1992.

(b) "Controlling Officer" means Joint Commissioner and Deputy commissioner in charge of the district/districts and under whose control the Sub - Inspector of Excise have been placed;(c) "Intoxicant" means Pachwai, Country Liquor, beer, wine rum, brandy, vodka, whisky, gin and any other alcoholic beverages whether manufactured lawfully or otherwise; (d) "Officer – in - charge" means Sub-Inspector of Excise/ Inspector of Excise who is in charge of Sub Division /District;(e) "perishable" means things liable to speedy decay;(2) Words and expression used herein and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

Procedure for destructions of intoxicant which is not fit for sale

3. (1) If any licensed manufacturer, wholesaler and retailer desire to dispose of stocks of liquor which he thinks not fit for sale he shall apply for destruction in Form I appended to these rules to the Commissioner of Excise.

(2) On receipt of the application in Form I referred to in sub-rule (1) the quantities as mentioned by the applicant shall be checked and verified by the officer authorized by the Commissioner Excise and thereafter the said officer shall take a samples of the stock and send to the Chemical Examiner for physical and chemical examination of the

Procedure to be followed for disposal of confiscated intoxicant, materials articles

sample.(3) The stock of liquor which are not fit for sale/human consumption as per the report of the chemical examiner shall be destroyed by a committee consisting of the (1) Controlling Officer (2) Officer in charge Excise under whose jurisdiction the case pertains and (3) the Sub-Inspector/ Inspector of Excise who is under the Controlling Officer in charge of the District.

(4) No claim on exemption of duty and compensation shall be entertained on the loss of intoxicant by destruction.

4. (1) If the seized article is pachwai or its extract the same shall be destroyed by the Investigating Officer unless in any particular case Controlling Officer decides with the approval of the Commissioner to sell all or any of them by auction.
- (2) The seized intoxicant, materials or any other articles shall be handed over to the Officer-in-charge of Police Station as per provision of section 69 of the Act for safe custody.
- (3) Controlling Officer shall submit the preliminary report leading to seizure of any intoxicants and other articles to the Commissioner within a period of 24 hours from the time of seizure.
- (4) When the case is disposed of by the Excise officer who is empowered in this behalf under section 57 of the Act, the confiscated articles excluding the Foreign Liquor and Country spirit of illicit origin shall be disposed of to the licensed vendors only. The price at which such disposal is to take place shall be determined by a committee consisting of the (1) Controlling Officer (2) Officer in charge Excise under whose jurisdiction the case pertains and (3) the Sub-Inspector/Inspector of Excise who is under the Controlling Officer in charge of the District provided that the price so determined shall be 12 % less of the maximum retail price of the articles.
- (5) If the order of confiscation is made by a Magistrate, the disposal of the confiscated articles shall be taken up by the committee as indicated under sub-rule (3) of rule 3 upon receipt of the order from the Magistrate.
- (6) After the sale proceeds is received from the licensed vendor, the intoxicant shall be transported on the strength of a Transport Permit issued by Excise Officers.
- (7) The disposal of the confiscated articles shall be deferred till the period of appeal as prescribed under Sikkim Excise Appeal Rules 2003, is over.
- (8) The sale proceed of such confiscated intoxicants and articles to be credited on government accounts under Major Head 0039 State Excise 150-Fine and Confiscation.
- (9) Controlling officer shall submit the consolidated monthly report to the Excise Commissioner indicating the details of the articles seized, confiscated and disposed of by 1st week of every succeeding month.

Nalini G. Pradhan
Secretary to the Government of Sikkim
Excise (ABK) Department

Form No.1
(see rule3)

Application form for destruction of Liquor/Beer/Wine/Champagne unfit for human consumption.

To,

The Commissioner,
Excise(Abk) Department,
Government of Sikkim,
Gangtok.

Sir,

I beg to apply for destruction of stocks of Liquor/Beer/Wine/Champagne unfit for human consumption. The stocks are as under:

<u>Sl No.</u>	<u>Name of Brands</u>	<u>No. of cases</u>	<u>Size of bottles</u>		
			Qts.	Pts.	Nips

Thanking you,

Yours faithfully,

Signature of the applicant

Name: _____

Address: _____

